IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 7065 of 2007(N)

PETITIONER:

M.S.HARIHARAN,
S/O SHANMUGHAN CHETTIYAR, AGED 50,
TC 39/523, CHALAI, MANACAUD VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.S.BABU GIREESAN

RESPONDENTS:

1. **UNION OF INDIA REPRESENTED BY THE PRINCIPAL SECRETARY, MINISTRY OF COMMERCE, BANKING DIVISION, NEW DELHI.**

2. **TAMIL NADU MERCANTILE BANK LTD., THIRUVANANTHAPURAM BRANCH, REPRESENTED BY ITS BRANCH MANAGER, H.H.Y.S BUIDLINGS, 1ST FLOOR, CHALAI, THIRUVANANTHAPURAM.**

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH
SRI.D.PREM KAMATH, CGC
SRI.JOHN VARGHESE, ASST.S.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.7065/2007 N

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE PASSBOOK SHOWING PAYMENT.

EXT.P2: COPY OF THE POSSESSION NOTICE DTD. 15/12/2006.

EXT.P3: COPY OF THE SALE NOTICE DTD. 13/02/2007.

/TRUE COPY/

KSS

S. SIRI JAGAN, J.

WP(C) NO. 7065 OF 2007 - N

Dated this the 6th day of July, 2007

J U D G M E N T

The petitioner challenges proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. However, the petitioner only seeks facility to pay the amounts in instalments.

2. I have heard the learned counsel for the Bank also. On 7.3.2007, this Court passed an interim order, the operative portion of which reads thus:-

> "Notice and interim stay for four months on condition that the petitioner deposits at a rate of Rs.10,000/- per month payable on or before the 10th day of every month commencing from March, 2007, without fail. "

3. In view of the interim order, I feel that the petitioner can be allowed to continue to pay the amounts due, as per the interim order as above. Accordingly, the writ petition is disposed of with the following directions:-

The petitioner shall continue to pay instalments as permitted in the interim order. If the petitioner pays the instalments promptly, without default, the impugned proceedings shall be kept in abeyance. However, if the petitioner commits default in payment of any one instalment, it would be open to the Bank to continue proceedings as now initiated without having to issue any fresh notice or proceedings in that regard. In the mean while, the petitioner may approach the Bank for one time settlement if a scheme is available. If the petitioner is entitled to the benefit of such scheme, the Bank shall consider the petitioner's claim and pass appropriate orders thereon. If the One Time Settlement benefit is granted, proportionately, the amount payable shall be adjusted, accordingly.

Sd/-

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007